



* IN THE HIGH COURT OF DELHI AT NEW DELHI

Reserved on: 2nd September, 2026.

Pronounced on: 13th October, 2026.

Uploaded on: 13th October, 2026.

CNR No. DLHC010143802018

+ W.P.(C) 1101/2018 & CM APPLs. 4598/2018, 7551/2018,
13995/2018, 19031/2020, 31247/2025, 74812/2025

HEMNANI PUBLIC SCHOOL

.....Petitioner

Through: Mr. Dinesh Agnani, Senior Advocate
with Mr. Hemant Manjani and Mr.
Tarun Aswani, Advocates.

Versus

IPSA GURNANI & ANR

.....Respondents

Through: Mr. Kuldeep Kumar and Mr. Syed
Nilofar Akhtar, Advocates for R-1
with Respondent No. 1 (in-Person).
Ms. Latika Choudhary, Adv. for DoE.

CNR No. DLHC011846832018

+ W.P.(C) 7885/2018

SMT. IPSA GURANANI

.....Petitioner

Through: Mr. Kuldeep Kumar and Mr. Syed
Nilofar Akhtar, Advocates with
Petitioner (in-Person).

Versus

THE STATE (GNCT) AND ORS.

.....Respondents

Through: Mr. Dinesh Agnani, Senior Advocate
with Mr. Hemant Manjani and Mr.
Tarun Aswani, Advocates for R-3&4.



Ms. Latika Choudhary, Adv. for DoE.

CORAM:
HON'BLE MR. JUSTICE SANJEEV NARULA

JUDGMENT

SANJEEV NARULA, J.:

1. These petitions arise from connected proceedings but challenge different actions concerning Ms. Ipsa Gurnani's service with Hemnani Public School ["the School"]. W.P.(C) 1101/2018 arises from her termination as Vice-Principal, whereas W.P.(C) 7885/2018 concerns the suspension which preceded her termination. The two petitions, however, come together on a common issue as to whether the School is an unaided linguistic minority institution.
2. The question of minority status assumes significance in W.P.(C) 1101/2018, whereby the School challenges the order dated 22nd December, 2017 passed by the Delhi School Tribunal ["DST"], setting aside Ms. Gurnani's termination. The DST proceeded on the basis that the School was not a minority institution and, consequently, held that prior approval of the Directorate of Education ["DoE"] was required under Section 8(2) of the Delhi School Education Act, 1973 ["DSE Act"]. It further held that the Disciplinary Authority had not been constituted in accordance with Rule 118 of the Delhi School Education Rules, 1973 ["DSE Rules"] and that the procedure prescribed under Rule 120 had not been complied with.
3. The DoE has taken different positions at different stages of this matter. Before the DST, it had proceeded on the basis that the School was not a minority institution. In the proceedings before this Court, however, material was placed on record indicating that the School had been treated as



a minority school in the DoE's records. The Court, accordingly, called upon the DoE to explain the basis for its differing positions.

4. The DoE subsequently placed its explanation on record. It addresses the basis on which it accepted the School's claim to linguistic minority status, the relevance of the judgment dated 14th July, 1982 in Civil Writ No. 940/1975, titled *Sindhi Education Society (Regd.) v. Director of Education & Ors.*, and the question whether a linguistic minority school in Delhi is required to possess a Minority Status Certificate. The DoE has also set out its present position regarding the manner in which claims of linguistic minority status are considered.

The Relevant Background and Subsequent Developments

5. Ms. Gurnani first joined the School in 1996 as an Asst. Trained Teacher, but resigned on 31st August, 2004. Subsequently, pursuant to an advertisement issued by the School for the post of PGT (History), she applied for and was recruited by the School. She was confirmed as PGT (History) with effect from 1st April, 2010. On 21st June, 2013, she was promoted as Vice-Principal and was thereafter confirmed on 15th July, 2014.

6. Disputes between Ms. Gurnani and the School management arose in 2015. The School issued show-cause notices to her, including notices dated 6th November, 2015 and 18th November, 2015. Ms. Gurnani, in turn, made complaints against the Principal and members of the Managing Committee. On her complaint dated 18th November, 2015, FIR No. 968/2015 came to be registered at P.S. Lajpat Nagar under Section 509 IPC against, among others, Ms. Prabha Aggarwal, the Principal of the School. Further show-cause notices and other disciplinary communications followed in 2016.

7. On 23rd July, 2016, Ms. Gurnani was placed under suspension, which



action she first challenged in W.P.(C) 7573/2016. By order dated 29th August, 2016, this Court, on her request and with the consent of the parties, directed that the writ petition be treated as a representation before the DoE, which was directed to consider the matter and pass a reasoned order thereon.

8. Meanwhile, the disciplinary proceedings continued. The School issued a memorandum of charges dated 22nd August, 2016. Soon thereafter, on 16th September, 2016, the Inquiry Officer and the Presenting Officer were appointed. According to the School, Ms. Gurnani was afforded repeated opportunities to participate in the enquiry but did not do so, following which the Inquiry Officer proceeded *ex parte*. Ms. Gurnani, however, disputed the manner in which the enquiry had been conducted and alleged violation of the principles of natural justice.

9. The enquiry thereafter culminated in a report, which was considered by the Disciplinary Authority. The School Managing Committee approved the Authority's recommendation and, consequently, on 10th February, 2017, terminated Ms. Gurnani's services. Aggrieved, she instituted an appeal before the DST under Section 8(3) of the DSE Act.

10. The proceedings concerning the suspension remained pending before the DoE. The DoE ultimately passed an order dated 28th March, 2017, in which it considered the School's claim that it was a linguistic minority institution and examined the effect of the judgment of the Supreme Court in ***Frank Anthony Public School Employees' Association v. UOI & Ors¹***. The DoE concluded that Sections 8(4) and 8(5) of the DSE Act continued to apply and that the School had neither obtained prior approval nor *ex-post facto* approval for the suspension. The suspension was, accordingly, held to



be void and the School was directed to allow Ms. Gurnani to join duty and to pay her full salary, along with all allowances and benefits. The DoE further directed that the period of suspension be treated as “Spent on Duty”.

11. The School did not challenge the order dated 28th March, 2017. Instead, it took the position that the directions contained therein had become infructuous since Ms. Gurnani’s services had already been terminated on 10th February, 2017. The dispute concerning implementation of the said order thereafter continued. Ms. Gurnani eventually instituted W.P.(C) 7885/2018 seeking implementation of the order dated 28th March, 2017.

12. In the meantime, the DST decided Ms. Gurnani’s appeal against her termination on 22nd December, 2017. Proceeding on the basis that the School had not been granted a Minority Status Certificate and was therefore not a minority institution, the DST examined the applicability of Section 8(2) of the DSE Act and the requirements of Rules 118 and 120 of the DSE Rules. Finding that the requisite requirements had not been complied with, the DST set aside the termination order and directed Ms. Gurnani’s reinstatement with consequential benefits and full wages from the date of the order. It further directed her to make a representation regarding back wages, to be considered and decided by the School and the Sindhi Education Society by a speaking order.

13. The School challenged the aforesaid order in W.P.(C) 1101/2018. On 6th February, 2018, this Court stayed its implementation. The School relied upon material which, according to it, demonstrated that it had been recognised as a minority school by the DoE and also disputed the DST’s finding concerning the constitution of the Disciplinary Authority.

¹ (1986) 4 SCC 707.



14. In view of the differing positions reflected in the record, the Court required the DoE to explain the basis on which the School had been treated as a non-minority institution before the DST, while being reflected as a minority school in certain records placed before this Court.

15. On 29th January, 2020, counsel for the DoE stated, on instructions, that the School was a minority school. The DoE thereafter filed a short affidavit in February 2020, stating that the School was managed by the Sindhi Education Society; the Scheme of Management, approved by the DoE in 1991, recorded that Sindhi had been declared a linguistic minority in Delhi; and the School was included in the DoE's list of minority schools. The affidavit also referred to the judgment dated 14th July, 1982 in *Sindhi Education Society* and stated that the contrary stand taken before the DST required an inquiry into how such "mistake/error" had occurred.

16. Ms. Gurnani, thereafter, disputed the basis on which the School claimed minority status. She pointed out, *inter alia*, that no Minority Status Certificate had been issued in favour of the School and that the School was not a party to the earlier litigation concerning the Sindhi Education Society. She also relied upon the School's position regarding admission of EWS students and the fact that, at earlier stages, the DoE had treated the School as a non-minority institution.

17. The Court thereafter passed further orders requiring the DoE to place a considered position on the question of the School's minority status. In its additional affidavit filed in compliance with this Court's order dated 9th May, 2024, the DoE explained that, during the proceedings before the DST, the School was functioning as a non-minority school and had admitted students under the EWS quota till 2014-15. According to the DoE, this



formed the basis on which the then DDE had treated the School as a non-minority institution and taken the corresponding stand before the DST. The DoE further stated that, after the School brought to its notice the judgment dated 14th July, 1982 in *Sindhi Education Society*, it reconsidered the claim in light of that judgment and the approved Scheme of Management. Since the Sindhi Education Society was the parent body of the School's management under the said Scheme, the Department accepted the School's claim as a minority school.

18. A further question arose regarding the requirement of a Minority Status Certificate for a school claiming linguistic minority status. By order dated 8th April, 2026, the Court accordingly called upon the DoE to clarify whether schools were required to obtain a certificate under the National Commission for Minority Educational Institutions Act, 2004 [“NCMEI Act”], including institutions established prior to its enactment, and to state its position regarding the applicability of the said Act to schools in Delhi.

19. The DoE thereafter clarified that, in the case of religious minority educational institutions, it requires a valid Minority Status Certificate issued by the NCMEI, irrespective of the date on which the institution was established. In respect of linguistic minority educational institutions, however, the DoE stated that “no statutory authority presently exists in Delhi for issuance of Minority Status Certificates to such institutions”. It further stated that claims of linguistic minority status are considered with reference to Article 30(1) of the Constitution of India, Section 2(o) of the DSE Act and the law laid down by the Supreme Court and this Court.

20. The DoE also clarified the effect of the notification dated 3rd December, 2024. By the said notification, the Director of Education was



appointed as the Competent Authority under Section 10 of the NCMEI Act for the purpose of issuing No Objection Certificates to Minority Educational Institutions/Schools in Delhi. The DoE stated that the said notification merely confers upon the Director of Education the statutory function of issuing such NOCs and does not confer any power to determine, declare or certify the minority status of an educational institution.

Submissions

21. Mr. Dinesh Agnani, Senior Counsel appearing for the School, submits that the premise underlying the DST's decision cannot sustain in view of the material now on record. He relies upon the judgment dated 14th July, 1982 in *Sindhi Education Society*, the subsequent decision of the Supreme Court in ***Sindhi Education Society & Anr. v. Chief Secretary, GNCTD & Ors.***², the Scheme of Management approved by the DoE and the DoE's own records and affidavits recognising the School as a linguistic minority school.

22. Once the School's minority status is accepted, Mr. Agnani submits, Section 8(2) of the DSE Act has no application. He contends that the termination cannot be invalidated merely because the nominee contemplated by Rule 118 of the DSE Rules did not participate in the disciplinary proceedings or because approval of the major penalty was not obtained from the DoE under Rule 120. Reliance is placed on *Frank Anthony* and, more directly, on ***C.S. Clarke v. Managing Committee of the Frank Anthony Public School & Ors***³. On facts, the School also asserts that a government nominee was initially included in the disciplinary body and attended the meeting dated 22nd April, 2016 but did not participate thereafter.

² (2010) 8 SCC 49.

³ LPA 177/2022, decision dated 14th September, 2023 (Delhi High Court).



23. Mr. Agnani further submits that the disciplinary record itself supports the termination. The charges, according to him, included misappropriation, examination-related irregularities, disobedience and other acts of misconduct. He submits that Ms. Gurnani was afforded repeated opportunities to participate in the enquiry, yet did not do so, compelling the Inquiry Officer to proceed *ex parte* and return findings against her. The charges being serious and unrebutted, the termination order ought to be sustained.

24. Mr. Kuldeep Kumar, appearing for Ms. Ipsa Gurnani, disputes the School's minority status. He submits that the judgment dated 14th July, 1982 concerned the Sindhi Education Society and another institution, Baba Nebhraj Senior Secondary School, and that the Petitioner School was neither a party to those proceedings nor in existence when Civil Writ No. 940/1975 was instituted. A society and a school, he submits, are distinct entities, and the minority character of the former cannot, without more, determine the character of an institution subsequently established by it. He also relies upon the absence of any NCMEI Minority Status Certificate in the School's favour and the contrary stand taken by the DoE before the DST.

25. Mr. Kumar further submits that, irrespective of the School's minority status, the disciplinary proceedings violated the principles of natural justice. He argues that Ms. Prabha Aggarwal, Ms. Kavita Wadhwani and Mr. K.R. Manjani were members of the disciplinary body yet also appeared as prosecution witnesses in the enquiry. Persons who gave evidence in support of the charges, he contends, could not thereafter participate in the decision-making process. Mr. Kumar also disputes the School's account of the Government nominee's participation and points to what he describes as



materially different versions of the composition of the Disciplinary Authority before the DST and before this Court.

26. Mr. Kumar further submits that *C.S. Clarke* does not conclude the matter in the School's favour. He contends that the decision is inconsistent with *G. Vallikumari v. Andhra Education Society & Ors.*⁴, *Management Committee of Montfort Senior Secondary School v. Vijay Kumar & Ors.*⁵, and the Full Bench decision of this Court in *Guru Harkishan Public School v. Directorate of Education & Anr.*⁶. He accordingly submits that *C.S. Clarke* is *per incuriam*. Reliance is also placed on the reference made in *Government of NCT of Delhi v. Raisina Bengali School*⁷, to contend that the extent to which Chapter VIII operates upon minority schools remains a matter of controversy.

27. In W.P.(C) 7885/2018, Mr. Kumar submits that, irrespective of the School's minority status, the suspension remained subject to Sections 8(4) and 8(5) of the DSE Act. The DoE's order dated 28th March, 2017, having been passed after hearing both sides and never having been challenged by the School, must, according to him, be given effect.

Discussion

Whether Hemnani Public School is a Linguistic Minority Institution

28. Ms. Gurnani is correct to this extent: Hemnani Public School was not the institution whose minority status was directly in issue in Civil Writ No. 940/1975. That petition concerned Baba Nebhraj Senior Secondary School. The judgment dated 14th July, 1982 cannot, therefore, be read as an

⁴ (2010) 2 SCC 497.

⁵ (2005) 7 SCC 472.

⁶ 2015 SCC OnLine Del 9530.

⁷ LPA 372/2025, order dated 3rd February, 2026 (Delhi High Court).



adjudication of Hemnani Public School's minority status.

29. The judgment is nonetheless relevant. It recognised two propositions bearing on the present controversy. First, the Sindhi community in Delhi constitutes a linguistic minority. Second, it recognised that a school established and administered by a linguistic minority, satisfying the ingredients of Section 2(o) of the DSE Act, is entitled to the status of a minority institution. In *Sindhi Education Society (2010)*, the Supreme Court noted that the judgment dated 14th July, 1982 had “clearly declared that the appellant is a linguistic minority” and that the judgment had attained finality. The Court further observed that once an institution satisfies the ingredients of Section 2(o), it must be accorded minority status.

30. Hemnani Public School's status, however, cannot be inferred merely from the fact that it is managed by the same Society. The connection must be established from the School's own record. Here, the Scheme of Management approved by the DoE in 1991 identifies the Sindhi Education Society as the School's parent managing body. The DoE's records also include the School in its list of minority schools. More significantly, when called upon in these proceedings to examine the School's status specifically, the DoE considered the 1982 judgment alongside the approved Scheme of Management and accepted the School's claim to minority status.

31. The DST did not have the benefit of the later affidavits filed before this Court in which the DoE explained its differing positions and placed the approved Scheme of Management in context of the 1982 judgment. On the present record, therefore, the DST's conclusion cannot stand.

32. There is also a more basic difficulty with the proposition on which the DST proceeded: absence of a Minority Status Certificate is not, by itself,



conclusive against minority status. Section 2(o) of the DSE Act defines a minority school as one established and administered by a minority having the right to do so under clause (1) of Article 30 of the Constitution of India. The definition, thus, turns on the establishment and administration of the institution by a minority having the constitutional right to do so. A certificate may formally declare or evidence that status; it does not create the right under Article 30(1).

33. *Sisters of St. Joseph of Cluny v. State of West Bengal & Ors.*⁸ does not suggest otherwise. The Supreme Court held that Section 11(f) of the NCMEI Act confers wide jurisdiction upon the NCMEI to decide questions relating to the minority status of an institution and to declare that status, including in the case of an existing institution. At the same time, the Court relied upon and expressly concurred with *Manager, Corporate Educational Agency v. James Mathew & Ors.*⁹, which reiterated that a certificate declaring minority status is “only a declaration of an existing status”. The distinction is material.

34. The DoE has taken the position that no statutory authority in Delhi presently issues Minority Status Certificates to linguistic minority institutions and that such claims are considered with reference to Article 30(1), Section 2(o) of the DSE Act and the governing law. In view of *Sisters of St. Joseph of Cluny*, it is unnecessary for this Court to endorse that statement as an exhaustive exposition of the NCMEI’s statutory jurisdiction. The narrower point is sufficient for these petitions: the DST could not treat the absence of a certificate as the end of the enquiry. The School’s status

⁸ (2018) 6 SCC 772.

⁹ (2017) 15 SCC 595.



must be determined from the constitutional and statutory test, applied to the material relating to the School itself.

35. Based on the record, the Court is satisfied that Hemnani Public School is an unaided linguistic minority educational institution.

The Consequence for the Termination

36. Recognition of the School's minority status does not place it beyond the DSE Act and the DSE Rules. The law distinguishes between provisions that regulate conditions of service and those that impermissibly interfere with the minority management's right to administer the institution.

37. In *Frank Anthony*, the Supreme Court held that Section 8(2) of the DSE Act, which requires the Director's prior approval for dismissal, removal, reduction in rank or termination of service, was inapplicable to minority institutions. The Court distinguished this provision from Sections 8(1), 8(3), 8(4) and 8(5), which it held did not violate Article 30(1). In *G. Vallikumari*, the Supreme Court reaffirmed this position and held that Chapter IV of the DSE Act, except Section 8(2), applies to recognised private minority educational institutions, whether aided or unaided.

38. *C.S. Clarke* takes the matter further and directly addresses the applicability of Rules 118 and 120 of the DSE Rules to unaided minority schools. The Division Bench considered whether Rule 118, insofar as it requires the Disciplinary Committee to include a nominee of the appropriate authority, applies to an unaided minority institution, and whether Rule 120 requires the DoE's approval for the imposition of a major penalty. It answered both questions in the negative. The Court held that the absence of the DoE's approval did not vitiate the dismissal and that the disciplinary action was not vitiated merely because the Disciplinary Committee did not



include a nominee of the appropriate authority.

39. The distinction sought to be drawn by Ms. Gurnani between a religious minority institution holding a Minority Status Certificate and a linguistic minority institution without such a certificate does not alter the applicability of the principles laid down in *C.S. Clarke*. As held above, the absence of a certificate does not, by itself, preclude recognition of an institution's minority status. The applicability of Rules 118 and 120 must therefore be assessed in light of the School's established minority status and the effect of those Rules on its right to administer the institution.

40. In view of the foregoing, Ms. Gurnani's termination cannot be set aside merely because the nominee of the appropriate authority was not included in the Disciplinary Committee or because the DoE had not approved the major penalty. Nor does the absence of prior approval under Section 8(2) of the DSE Act invalidate the termination.

41. Mr. Kumar's contention that *C.S. Clarke* is *per incuriam* also cannot be accepted. The Division Bench of this Court in *C.S. Clarke* considered *Frank Anthony* and the Full Bench decision in *Guru Harkishan Public School* before deciding the applicability of Rules 118 and 120 to unaided minority schools.

42. Although Mr. Kumar relies upon the reference made in *Raisina Bengali School*, the questions referred therein concerned the applicability of Chapter VIII of the DSE Rules in a materially different context. The first question, on which Mr. Kumar places emphasis, was whether the exemption granted to minority institutions under Section 12 of the DSE Act stood nullified, thereby making Chapter VIII applicable to all minority schools, whether aided or unaided. The remaining questions concerned, *inter alia*, the



DoE's authority to oversee recruitment under Rule 96 of the DSE Rules, the extent to which government-aided minority institutions could claim autonomy from regulatory measures in matters of public employment, and the constitutional balance between minority rights under Article 30(1) and the State's regulatory authority under Article 30(2). The reference arose from a dispute concerning recruitment under Rule 96 in an aided minority school, whereas *C.S. Clarke* directly addressed the applicability of Rules 118 and 120 to disciplinary proceedings in an unaided minority school. The order of reference does not itself overrule *C.S. Clarke*, and no subsequent decision of the Larger Bench taking a contrary view has been brought to the Court's notice.

43. That, however, does not dispose of Ms. Gurnani's appeal. *C.S. Clarke* draws a clear distinction between taking disciplinary control away from the minority management and regulating the procedure for exercising that control. The Division Bench recognised that the State may regulate conditions of service, including the procedure for disciplinary action, without offending Article 30(1), but cannot vest the core function of disciplinary decision-making in a body beyond the management of the minority institution. The management's right to take disciplinary action does not, however, extend to conducting the proceedings in a manner that denies a fair procedure or a reasonable opportunity to the employee.

44. One of Ms. Gurnani's objections finds some support in the enquiry record. Ms. Kavita Wadhwani appears as PW-03, Mr. K.R. Manjani as PW-18, and Ms. Prabha Aggarwal was expressly summoned as a departmental/prosecution witness and deposed as PW-13. Before DST, the School itself described the Disciplinary Authority as comprising these



persons. The material placed before this Court, however, reflects a different composition. The issue is not whether these persons deposed as witnesses, which they plainly did, but whether any of them participated in the disciplinary decision after receipt of the enquiry report, particularly in the recommendation dated 4th February, 2017, which preceded the termination.

45. The parties also dispute whether the enquiry report was furnished to Ms. Gurnani, whether she was afforded an effective opportunity to respond after its receipt, and whether her refusal to participate led the Inquiry Officer to proceed *ex parte*. The seriousness of the charges does not resolve these questions. If the School afforded Ms. Gurnani a fair opportunity and she chose not to avail herself of it, she cannot rely on her own non-participation to challenge the enquiry. Conversely, if persons who had deposed as witnesses against her also participated in the disciplinary decision, or if the School denied her an opportunity required by the governing procedure, the gravity of the charges would not cure that defect. These questions must be decided on the basis of the disciplinary record.

46. The DST did not undertake an examination of the aforementioned issues. Having held that the School was not a minority institution, it proceeded to set aside the termination for want of prior approval and on its interpretation of Rules 118 and 120. It did not determine the objections concerning the alleged overlap between witnesses and decision-makers, the furnishing of the enquiry report and the opportunity afforded to Ms. Gurnani thereafter, or the challenges to the Inquiry Officer's findings on the other grounds raised before it.

47. This Court does not consider it appropriate to decide these disputed questions in the first instance. Section 8(3) of the DSE Act entrusts appellate



scrutiny of the termination to the DST. The age of the dispute warrants a limited remand and a time bound decision.

48. The DST's order dated 22nd December, 2017 must accordingly be set aside. Appeal No. 42/2017 shall stand restored for adjudication of the grounds that remain open, subject to the limits of the remand set out in the operative directions at the end.

The Suspension and its Financial Consequences

49. W.P.(C) 7885/2018 stands on a different footing and need not await the outcome of the remand. Before the DoE, the School contended that, as a linguistic minority institution, it was not required to obtain approval for the suspension. By an order dated 28th March, 2017, the DoE considered and rejected this contention in light of *Frank Anthony* and held that Sections 8(4) and 8(5) of the DSE Act continued to apply and that the School had obtained neither prior nor *ex-post facto* approval for the suspension.

50. That conclusion accords with the statutory scheme. In *Frank Anthony*, the Supreme Court held that Section 8(4) does not encroach upon the right of minority institutions to administer their educational institutions. It recognised the management's right to order immediate suspension in cases of gross misconduct, while upholding the requirement of approval within fifteen days as a safeguard against abuse of that power. *G. Vallikumari* reaffirmed that Sections 8(4) and 8(5) apply to recognised minority institutions, whether aided or unaided. Recently, the Division Bench of this Court, in ***Delhi Public School Dwarka v. Sarika Prasad & Ors.***¹⁰, held that an immediate suspension under the proviso to Section 8(4) cannot remain in force beyond fifteen days unless it has been communicated to the Director



and approved before the expiry of that period. The Full Bench affirmed this position in *Hema Bajaj v. Rao Mehar Chand Saraswati Vidya Mandir School & Ors.*¹¹, holding that suspension automatically lapses if approval is not received within fifteen days and cannot be revived by later approval.

51. Needless to state, mere communication of the suspension does not amount to approval. The School informed the DoE of the suspension and supplied the documents subsequently called for, however, what it never received was the approval required for the suspension to continue beyond the statutory period.

52. There is a further difficulty for the School. It did not challenge the DoE's order dated 28th March, 2017. In its response dated 6th April, 2017, the School contended that the order had become infructuous because Ms. Gurnani's services had already been terminated on 10th February, 2017. This contention may bear upon the direction permitting her to resume duty. It cannot, however, retrospectively cure the absence of the requisite approval for the suspension or displace the financial directions issued by the DoE.

53. The DoE did not merely hold that the suspension was void for want of approval. It also directed that the period of suspension be treated as "Spent on Duty" and that Ms. Gurnani be paid full salary, allowances and benefits. The School did not challenge the directions issued. They, therefore, remain operative and must be given effect to in accordance with their terms.

54. Accordingly, the directions issued in the DoE's order dated 28th March, 2017 must be implemented in respect of the suspension period, with credit for the subsistence allowance and any other amounts already paid for

¹⁰ 2022 SCC OnLine Del 3374.

¹¹ W.P.(C) 12327/2021, order dated 3rd July, 2026.



that period. Ms. Gurnani's entitlement to wages or other consequential benefits after 10th February, 2017 stands on a different footing and shall abide by the outcome of the restored appeal.

Conclusion and Directions

55. W.P.(C) 1101/2018 is allowed in part. The order dated 22nd December, 2017 passed by the DST in Appeal No. 42/2017 is set aside, and the appeal is restored to the DST for a fresh decision.

56. The DST shall proceed on the basis that Hemnani Public School is an unaided linguistic minority institution. It shall not invalidate the termination for want of prior approval under Section 8(2) of the DSE Act, absence of the nominee of the appropriate authority under Rule 118 of the DSE Rules, or want of the DoE's approval under Rule 120.

57. The DST shall decide the remaining grounds, including the objections concerning natural justice; the alleged participation of witnesses in disciplinary decision-making; furnishing of the enquiry report and the opportunity to respond; the manner in which the enquiry was conducted; the Inquiry Officer's findings; and the punishment imposed. It shall consider these issues independently, within the scope of Section 8(3) of the DSE Act, without treating anything said in this judgment as an expression of opinion on their merits. The DST may call for and examine the original disciplinary record, including the recommendation dated 4th February, 2017.

58. The termination dates back to February 2017. The restored appeal shall therefore be taken up on priority and, as far as practicable, decided within four months from the date on which the DST receives the record. The parties shall cooperate with the proceedings and shall not seek avoidable adjournments.



59. W.P.(C) 7885/2018 is allowed. Hemnani Public School and its management shall implement the directions issued in the DoE's order dated 28th March, 2017 in respect of the suspension period. The amount payable shall be computed in accordance with that order, after giving credit for the subsistence allowance and any other amount already paid for the same period. The balance amount shall be released to Ms. Gurnani within eight weeks from the date of this judgment.

60. No opinion is expressed on Ms. Gurnani's entitlement to wages or any other consequential benefit after 10th February, 2017. Such entitlement shall abide by the decision of the DST in the restored appeal and the applicable statutory framework.

61. The petitions are disposed of in the above terms. Pending application(s), if any, also stand disposed of.

SANJEEV NARULA, J

OCTOBER 13, 2026/as